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8 **UNITED STATES DISTRICT COURT**

9
10 **District of Nevada**

11 Paula Sutton,
12 Plaintiff

Case No. 3:13-cv-00630-LRH

13
14 v.

ORDER REGARDING
PLAINTIFF'S EX PARTE
APPLICATION FOR ORDER
EXTENDING TIME TO
DESIGNATE LOCAL
COUNSEL AND FILE PROOF OF
SERVICE AND SUPPORTING
DECLARATION

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18 Sally Jewell, Secretary,
19 Department of the Interior
(Bureau of Land Management),
20 Agency

FRCP Rule 4(m)
LR IA 10-2

21 Defendant

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23 Plaintiff Paula Sutton respectfully applies to this court for an ORDER extending the time to
24 file the Designation of Local Counsel and Verified Petition for a period of 30 days or until April 7,
25 2014 and further applies for an order re-setting the date for filing proof of service on Defendant Sally
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Jewell under FRCP Rule 4(m) at 120 days after filing Designation of Local Counsel or no later than August 5, 2014.

DECLARATION IN SUPPORT OF EX PARTE APPLICATION

I, Robert V. Cohune, being sworn, depose and state:

1. I am duly admitted to state and federal courts in California, but not in Nevada federal courts. I previously identified counsel and advised the Assistant U.S. Attorney of his identity. On the date of this declaration I left a voice mail message advising of this ex parte application.

2. Good cause exists for granting an additional 30 days within which to formally engage and brief Nevada Trial Counsel before he makes an appearance on behalf of plaintiff..

3. Plaintiff had a career appointment as GS 13 archeologist for the Department of Interior, Bureau of Indian Affairs in Alaska with consistently superior performance evaluations. She excelled professionally notwithstanding her permanent and near-total hearing deficit. She was rified but later found a position with the Department of Interior, Bureau of Land Management in Nevada.

4. Her BLM appointment was not renewed because her requests for reasonable accommodation of her hearing deficit were deemed disruptive by BLM management. Declarant represented her at the administrative hearing.

5. A short time later the Alaska office of the Bureau of Indian Affairs announced it was hiring archeologists and that she had reinstatement priorities under 5 CFR §330.601 et. seq. She applied, was the most qualified, and participated in a telephone interview with two former

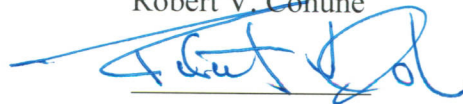
1 supervisors who were well aware of her hearing disability. Her request for reinstatement was
2 rejected because her answers to questions posed were incomplete and she *did not ask for*
3 *reasonable accommodation*.
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5 6. This request for an extension of time to formally select counsel and file summons is
6 necessary for three reasons. First, a request to join the two actions under 29 C.F.R. §§ 1614.606 and
7 1614.607 is being prepared.

8 7. Second, exhaustion of EEOC administrative remedies has been completed as to
9 the BIA and was only recently completed as to the BLM. Counsel has been retained to represent
10 plaintiff in the District of Alaska case which is at issue and in the discovery stage. The third
11 reason is that proposed Nevada counsel must be briefed on the Alaska action before committing
12 to represent plaintiff in Nevada.
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14 I declare under penalty of perjury that the foregoing is true and correct. Executed at
15 Truckee, California on March 3, 2014.
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17 Robert V. Cohune

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19 **LEGAL AUTHORITY FOR EXTENSION OF TIME**

20 Rule 4(m) FRCP provides:

21 If a defendant is not served within 120 days after the complaint is filed, the court
22 -on motion or on its own after notice to the plaintiff-must dismiss the action
23 without prejudice against that defendant, or order that service be made within
24 a specified time. But if the plaintiff shows good cause for the failure, the court
25 must extend time for service for an appropriate period. (emphasis added)

26 Plaintiff has shown good cause for the extension under Rule 4(m). It is respectfully
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1 requested that the within application be granted and the court sign the annexed [proposed] order
2 extending time to November 18, 2013.
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5 Date: March 3, 2014

Robert V. Colone

Attorney for Plaintiff

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9 **ORDER**

10 Upon plaintiff's motion, the facts and authority contained therein and GOOD CAUSE
11 APPEARING, it is hereby ORDERED that the deadline for filing Designation of Local Counsel
12 and Verified Petition be extended for a period of 30 days or until April 7, 2014 and further
13 ORDERS the deadline for filing proof of service on Defendant Sally Jewell under FRCP Rule
14 4(m) shall be extended for 120 days after filing Designation of Local Counsel or no later than
15 August 5, 2014.
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17 DATED this 8th day of April, 2014.

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LARRY R. HICKS

UNITED STATES DISTRICT JUDGE
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